

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
MANUFACTURERS MINERAL COMPANY,)
)
Appellant,)
)
v.)
)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
)
Respondent.)

PCHB No. 78-89

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal from the issuance of two \$250 civil penalties for the alleged violation of Sections 6.03(a) and 9.15(a) of respondent's Regulation I, came before the Pollution Control Hearings Board, Dave J. Mooney, Chairman, Chris Smith, and David Akana (presiding) at a formal hearing on July 17, 1978 in Seattle.

Appellant was represented by its attorney, H. Donald Gouge; respondent was represented by its attorney, Keith D. McGoffin.

The parties discussed the issues raised in the matter at a pre-hearing conference which was followed by the hearing on the merits.

1 Having heard the testimony, having examined the exhibits,
2 and having considered the contentions of the parties, the Board comes
3 to these

4 FINDINGS OF FACT

5 I

6 Pursuant to RCW 43.21B.260, respondent has filed with the Board
7 a certified copy of its Regulation I and amendments thereto which
8 are noticed.

9 II

10 Appellant, Manufacturers Mineral Company, is located at 1215 Monster
11 Road S.W. in Renton, Washington. The company was located in Seattle
12 for many years before locating at its present site in Renton in 1967.

13 As a part of its business, appellant processes non-metallic
14 material for industrial and architectural purposes, including pea-
15 gravel. The gravel, which is used primarily for dust collection and
16 other filtering purposes, is screened to meet specific size
17 specifications. Before it is fed into a rotary drum dryer, which is
18 the subject matter of the instant appeal, the gravel is twice washed.
19 In the dryer, wet gravel is heated to remove the moisture. Moist air
20 and any entrained particulate matter removed from the gravel are
21 exhausted into the atmosphere through a stack. The dryer operates
22 intermittently during each month for varying periods of time.

23 III

24 On March 29, 1978 respondent's inspector saw a dryer on appellant's
25 property which he had not previously noticed. After making arrangements
26 to visit the site on April 6, 1978, respondent's inspectors observed

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 the dryer and its operation. Also on that day, the inspectors made
2 an observation of the tan colored plume and recorded its opacity at
3 about 20%. An examination of agency records revealed no notice of
4 construction or approval for construction of the dryer.

5 For the foregoing events, appellant was issued a Notice of
6 Violation for installing the dryer without a notice of construction
7 as required by Section 6.03(a) from which followed a \$250 civil
8 penalty. In addition, appellant was given a second Notice of Violation
9 under Section 9.15(a) for causing particulate matter to be handled,
10 transported, or stored without taking reasonable precautions to prevent
11 the particulate matter from becoming airborne. A \$250 civil penalty
12 followed. No other regulation, including Section 9.09 (weight
13 rate standard), was shown to be violated.

14 IV

15 Although there are many dryers which are similar to appellant's
16 dryer in the area, respondent's information is that all such dryers
17 have some type of air pollution control device whereas appellant's
18 dryer has none. Because emissions were observed from the dryer,
19 respondent contends that no reasonable precaution was taken to
20 prevent particulate matter from becoming airborne.

21 V

22 Appellant is the only supplier within respondent's jurisdiction
23 which produces gravel to meet specific size specifications. By
24 using twice-washed gravel, much of the matter that may become
25 airborne is removed. This feature apparently distinguishes appellant's
26 operation from other operations using similar dryers.

1 VI

2 Appellant did not file its notice of construction pursuant to
3 Section 6.03 because it was not aware of the requirement to do so.
4 Because it considered emissions from its dryer to be so low compared
5 to the allowed amount, appellant felt that no permit was required.
6 Appellant's tests, which procedures are not recognized by respondent,
7 produced results that convinced appellant that its emissions were
8 lower than the weight rate standards in Section 9.09.

9 VII

10 Any Conclusion of Law which should be deemed as a Finding of
11 Fact is hereby adopted as such.

12 From these Findings the Board comes to these

13 CONCLUSIONS OF LAW

14 I

15 Appellant admittedly violated Section 6.03(a) of Regulation I
16 by constructing, installing or establishing a new air contaminant
17 source without having a filed and approved "Notice of Construction
18 and Application for Approval." Accordingly, the \$250 civil penalty
19 should be affirmed.

20 II

21 Appellant's process was not charged with any violation of any Section
22 of Regulation I, Article 9, other than Section 9.15(a). In view of the
23 process and material used on April 6, we conclude that at that time
24 additional precautions to prevent particulate matter from becoming airborne
25 from its equipment were not necessary and that appellant's actions were
26 reasonable. Accordingly, the \$250 civil penalty should be vacated.

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

III

Any Finding of Fact which should be deemed a Conclusion of Law
is hereby adopted as such.

From these Conclusions the Board enters this

ORDER


1. The \$250 civil penalty for the violation of Section 6.03(a)
of Regulation I is affirmed.


2. The \$250 civil penalty for the alleged violation of
Section 9.15 of Regulation I is vacated.

DATED this 1st day of August, 1978.

POLLUTION CONTROL HEARINGS BOARD


DAVE J. MOONEY, Chairman


CHRIS SMITH, Member


DAVID AKANA, Member